

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 190

BY BUSINESS COMMITTEE

AN ACT

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2050, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REQUIRED CONTENTS OF A SELLER REPRESENTATION AGREEMENT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-2050, Idaho Code, be, and the same is hereby amended to read as follows:

54-2050. BROKERAGE REPRESENTATION AGREEMENTS – REQUIRED ELEMENTS. All real estate brokerage representation agreements, whether with a buyer or seller, must be in writing in the manner required by section 54-2085, Idaho Code, and must contain the following contract provisions:

(1) Seller representation agreements. Each seller representation agreement, whether exclusive or nonexclusive, must contain the following provisions:

(a) Conspicuous and definite beginning and expiration dates;

(b) A ~~legally enforceable~~ description of the property to be bought or sold which sufficiently identifies the property so as to evidence an understanding of the parties as to the location of the real property. Nothing in this section shall be construed to require a legal description, nor a metes and bounds description of the property. Provided further, a representation agreement shall not be held invalid for lack of a legal description or a metes and bounds description;

(c) Price and terms;

(d) All fees or commissions; and

(e) The signature of the owner of the real estate or the owner's legal, appointed and duly qualified representative, and the date of such signature.

(2) Buyer representation agreements. Each buyer representation agreement, whether exclusive or nonexclusive, must contain the following provisions:

(a) Conspicuous and definite beginning and expiration dates;

(b) All financial obligations of the buyer or prospective buyer, if any, including, but not limited to, fees or commissions;

(c) The manner in which any fee or commission will be paid to the broker; and

(d) Appropriate signatures and their dates.

(3) Prohibited provisions and exceptions – Automatic renewal clauses. No buyer or seller representation agreement shall contain a provision requiring the party signing the agreement to notify the broker of the party's intention to cancel the agreement after the definite expiration date, unless the representation agreement states that it is completely nonexclusive and it contains no financial obligation, fee or commission due from the party signing the agreement.

1           (4) Copies required. A broker or salesperson who obtains a written brokerage  
2 representation agreement of any kind shall, at the time of securing such agreement, give the  
3 person or persons signing such agreement, a legible, signed, true and correct copy thereof.  
4 To the extent the parties have agreed in writing, copies that are electronically generated or  
5 transmitted, faxed or delivered in another method shall be deemed true and correct.

6           (5) Electronically generated agreements. To the extent the parties have agreed in writing,  
7 brokerage representation agreements with a buyer or seller that are electronically generated  
8 or transmitted, faxed or delivered in another method shall be deemed true and correct and  
9 enforceable as originals.